

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

Court Minutes and Order

HEARING DATE: May 17, 2021
JUDGE: Brett H. Ludwig
CASE NO.: 20-cv-0153-bhl
CASE NAME: West Bend Mutual Insurance Company v. Coakley Brothers Company et al
MATTER: Status Conference
APPEARANCES: Austin B Borton, Attorney for West Bend Mutual Insurance Company
Mollie T Kugler, Attorney for Coakley Brothers Company, QBE Insurance Corporation, and Brothers Business Interiors LLC
Paul J Pytlik, Attorney for The Hanover Insurance Company
Amy M Freiman, Attorney for Capital Data Inc and Hartford Fire Insurance Company
Kenderick M Jordan, Attorney for Roanoke Insurance Group Inc and Certain Underwriters at Lloyd's London
Nina G Beck, Attorney for UPS Ground Freight Inc
Timothy S McGovern, Attorneys for BNSF Logistics LLC
Henry E Koltz, Attorney for Switch Ltd d/b/a/ Supermap
TIME: 10:05 a.m. – 10:37 a.m.
COURTROOM DEPUTY: Melissa P.

AUDIO OF THIS HEARING IS AT ECF NO. 164

The Court discussed the status of the case and all pending motions with counsel for the parties. For the reasons stated on the record,

IT IS HEREBY ORDERED:

1. BNSF Logistics LLC's motion to dismiss plaintiff's second amended complaint, ECF No. 121, is **DENIED**.
2. Coakley Brothers Company, Brothers Business Interiors LLC, and QBE Insurance Corporation's motion to dismiss the Roanoke defendants' counterclaim and crossclaim for declaratory judgment, ECF No. 140, is **DENIED**.
3. Brothers Business Interiors LLC, Coakley Brothers Company, and QBE Insurance Corporation's expedited motion for leave to amend its third-party complaint, ECF No. 147, is **GRANTED**. The amended third-party complaint, ECF No. 148-1, shall be filed as of the date of this Order. BNSF Logistics LLC must respond within 21 days. Because the amended third-party complaint appears to add a new claim against Switch Ltd.,

Switch may also choose to respond within 21 days or may rely on its answer to the original third-party complaint, ECF No. 99. If Switch chooses not to respond, the Court will deem it to deny the allegations related to the additional subrogation claim.

4. West Bend Mutual Insurance Company's amended joinder and motion for leave to amend its complaint, ECF No. 151, is **GRANTED**. The fourth amended complaint, ECF No. 151-1, shall be filed as of the date of this Order. Only BNSF Logistics LLC must respond within 21 days; the other parties' filings in response to West Bend's third amended complaint will remain effective and be deemed responses to the fourth amended complaint.
5. The Hanover Insurance Company's motion to approve the stipulation for substitution of counsel, ECF No. 154, is **GRANTED**. Attorney Paul J. Pytlik, of the law firm of Ratzel, Pytlik & Pezze, LLC, is hereby substituted as attorney of record for the Defendant, The Hanover Insurance Company, in place of Attorney Lawrence D. Mason of Goldberg Segalla LLP.
6. Brothers Business Interiors LLC, Coakley Brothers Company, QBE Insurance Corporation, and The Hanover Insurance Company's stipulation for substitution of counsel, ECF No. 159, is **APPROVED**. Mollie T. Kugler and von Briesen & Roper, s.c. shall be substituted as counsel of record for Defendants Coakley Brothers Company, Brothers Business Interiors, LLC, QBE Insurance Corporation, and The Hanover Insurance Company (as to merits), and that April K. Toy and the firm of Hinshaw & Culbertson LLP are withdrawn as counsel of record for Defendants Coakley Brothers Company, Brothers Business Interiors, LLC, QBE Insurance Corporation, and The Hanover Insurance Company (as to merits).
7. West Bend Mutual Insurance Company's unopposed motion to amend the scheduling order, ECF No. 160, is **GRANTED in part**.
 - The plaintiff's fact and expert witness disclosure deadline is extended to **June 8, 2021**.
 - The defendants' fact and expert witness disclosure deadline is extended to **September 7, 2021**.
 - The third-party defendants' fact and expert witness disclosure deadline is extended to **December 6, 2021**.

- All fact and expert discovery must be completed no later than **February 7, 2022**. Requests for written discovery must be served on or before January 7, 2022.
- Motions for summary judgment must comply with Fed. R. Civ. P. 56 and Civil L. R. 7 and shall be served and filed on or before **March 15, 2022**. No party may file a motion for summary judgment without leave of the Court.

8. A status conference is set for **February 10, 2022 at 11:00 a.m.** by telephone. To appear by telephone, call the Court conference line at 1-866-434-5269 and enter access code 1737450# before the scheduled hearing time. **Counsel are directed to meet and confer about ways to narrow the issues in dispute prior to the status conference.**

Dated at Milwaukee, Wisconsin on May 17, 2021.

s/ Brett H. Ludwig
BRETT H. LUDWIG
United States District Judge
